

# **Exhibit B**

**DECLARATION OF BRIAN C. KUNZLER  
UNDER 37 CFR 1.131 ANTEDATING A PRIOR ART REFERENCE**

I, Brian C. Kunzler, acknowledge that any willful false statements in the like are punishable by fine or imprisonment or both and they jeopardize the validity of the application or any patent issuing thereon. All statements made herein are made of my own knowledge and are true and all statements made on information and belief are believed to be true. I hereby declare that I am one of the supervising patent attorneys who supervised and managed preparation of U.S. Patent Application Serial No. 10/811,664 entitled **MIRRORED VOLUME REPLICATION METHOD, APPARATUS, AND SYSTEM**, which was filed on March 29, 2004. I have recently become aware of a prior art reference which has been cited against this patent application. The reference is U.S. Patent Application Publication No. US2005/0081091, to Bartfai, et al. (referred to herein as "Bartfai") filed on September 29, 2003, for a **METHOD, SYSTEM, AND ARTICLE OF MANUFACTURE FOR RECOVERY FROM A FAILURE IN A CASCADING PPRC SYSTEM**.

I declare that I exercised diligence in managing and overseeing preparation of the patent application. I declare that I believe the invention disclosed and described in IBM disclosure submission number SJ08-2003-0165 (which includes the main idea page and all attachments) created by John Thompson (inventor) on September 24, 2003 do fully and completely describe the inventors' invention. Specifically, the Main Idea document and attached drawing which was provided by John Thompson on October 17, 2003 to the patent review committee clearly describes the claimed subject matter of the invention. Specifically, the last paragraph of the Main Idea document and the attached drawing describe storing an original primary volser in a dump conditioning field of a secondary volume when the volser of the secondary volume is changed. I declare that this memo was provided to me on or about December 5, 2003 when I received the attached cover letter dated December 5, 2003.

I exercised diligence in reviewing drafts of the patent application and submitting the drafts for final approval by the IBM attorneys. In addition, upon approval from IBM, I exercised diligence in arranging to get inventor signatures and in filing the patent application on March 29, 2004. This is evidenced by the enclosed email that was prepared by my assistant, Heather Babb, on March 22, 2004. I believe that all parties involved exercised due diligence in preparing, reviewing, and submitting the patent application.

Dated this 28th day of February, 2007.

  
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Brian C. Kunzler